



JUNE 6, 2022 REGULAR ZBA MEETING MINUTES

A meeting of the Peabody Zoning Board of Appeals was held on Monday, June 6, 2022 at 7:00 p.m.
Peabody City Hall, 24 Lowell St., Wiggin Auditorium

MEMBERS PRESENT	MEMBERS ABSENT
Frances Bisazza-Gallugi, Chairperson	
Stephen Zolotas, Vice-Chairperson	
Keith Slattery	
Chris Gilbert	
Barry Osborne	

Also in attendance...

Attorney John R. Keilty

Attorney Jason Panos

Attorney Damon Seligson

(Ms. Gallugi read the opening statement made part of these minutes)

REGULAR MEETING

1. Application of Todisco Properties LLC c/o Stephen Todisco for a Variance from the Provision of the Zoning Ordinance 2020, as amended, **Section(s) 7.2**, as it applies to the premise known as **3 George Rd.**, Peabody, MA, 01960 Map 032 Lot 015. Petitioner seeks a variance and requires relief to Right Side Yard where 20' is required and 16.7' is proposed; Left Side Yard where 20' is required and 19.7' is proposed; Front Yard where 25' is required and 15.5' is proposed. The property is located in an R1 zoning district.

(Keith read Legal Ad)

Stephen and Alexandra Todisco: homeowners proposing addition. Purchased as is – unfinished.

Fran Gallugi: Any questions by the Board? Anyone in the audience to speak in favor? In opposition. Hearing none the matter is before the board.

Stephen Zolotas: Motion to close the public hearing

Keith Slattery: Second

Stephen Zolotas: Motion to approve

Keith Slattery: Second

Fran Gallugi: Roll call vote (5,0)

2. Administrative Appeal of J.D Raymond Transport c/o Attorney Kimberly Kroha from the Provision of the Zoning Ordinance 2020, as amended, Section(s) 15.6.2, as it applies to the premise known as 27-R FARM AVE, Peabody, MA, 069-005A. Petitioner seeks an **administrative appeal** from the Building Permit Issuance by Commissioner Talarico for 27R Farm Ave.. The property is located in a DDD zoning district.

(Keith read Legal Ad)

Fran Gallugi: I need a motion to accept the following correspondence

CORRESPONDENCE

5.31.22 Panos Memo in opposition with supporting **4.6.20 Hayes Memo** to Lucia DelNegro/Con Comm and **8.13.20 Hayes Memo** to ZBA

6.6.22 Brendan Memo Conservation

6.6.22 Kroha Memo

Keith Slattery: Motion to accept

Stephen Zolotas: Second

Kimberly Kroha: Attorney for JD Raymond gave a brief overview of the administrative appeal.

Jason Panos: Gave a rebuttal and feels the Building Commissioner's issuing the permit should be upheld.

Fran Gallugi: It sounds like there was a disconnect between ZBA and Conservation. Jason, you do not have anything in writing from the Conservation Commission stating you do not need an RDA?

Attorney Panos: No.

Fran Gallugi: I would like for someone to make a motion to suspend the building permit until you apply for the RDA with the Conservation Commission. Once that determination is made you can come back before this Board. We will continue this until July 18, 2022. We have a memo from Brendan Callahan stating you should file the RDA.

(Memo was read into the record and made part of these minutes)

Keith Slattery: Motion to suspend the building permit at 27R Farm Ave until Conservation Commission makes a determination.

Stephen Zolotas: Second

Fran Gallugi: Roll call vote (5,0) in favor

3. Application of BERTOLINO JR FRANK J & for a Variance from the Provision of the Zoning Ordinance 2020, as amended, Section(s) 7.1.5, as it applies to the premise known as **54 NEWCASTLE RD**, Peabody, MA, 064-167. Petitioner seeks a variance to construct a detached garage and requires relief to Accessory Structure Size where 500 sf is allowed, and 784 sf is proposed; Accessory Structure Setback where 10' is required and 6' is proposed. The property is located in a R1A zoning district.

(Keith read Legal Ad)

Frank Bertolino Architect: Detached garage 784 sf

Fran Gallugi: I feel this is too big. Any questions or comments by the Board?

Stephen Zolotas: I agree. It's too big. Will the applicant entertain a reduction?

(Discussion ensued)

Frank Bertolino: We would agree to 25' x 25' 625 sf

Fran Gallugi: Anyone in the audience to speak in favor? In opposition. Hearing none the matter is before the board.

Keith Slattery: Motion to close the public hearing

Stephen Zolotas: Second

Stephen Zolotas: Motion to approve with the condition the garage be 25' x 25' / 625sf and the applicant submit a revised plot plan.

Keith Slattery: Second

Fran Gallugi: Roll call vote (5,0) in favor

4. Application of Charlie Schlicher for a Variance from the Provision of the Zoning Ordinance 2020, as amended, Section(s) 7.2, as it applies to the premise known as **18 ARNOLD RD**, Peabody, MA, 108-294. Petitioner seeks a variance for a 12' x 21' open deck and requires relief to Left Side Yard where 15' is required and 9' is proposed. The property is located in a R1A zoning district.

(Keith Read Legal Ad)

Charlie Schlicher: Nephew of homeowner gave a brief overview of the proposal for deck

Fran Gallugi: Any questions by the Board? Anyone in the audience to speak in favor? In opposition. Hearing none the matter is before the board.

Keith Slattery: Motion to close the public hearing

Stephen Zolotas: Second

Keith Slattery: Motion to approve

Stephen Zolotas: Second

Fran Gallugi: Roll call vote (5,0) in favor

5. Application of EVERS CHARLES & ANDREA M for a Variance from the Provision of the Zoning Ordinance 2020, as amended, Section(s) 7.2, as it applies to the premise known as **6 KROCHMAL RD**, Peabody, MA, 101-147. Petitioner seeks a variance for an open deck and requires relief to Side Yard where 20' is required and 14' is proposed; Lot Coverage where 25% is allowed and 30% is proposed. The property is located in a R1 zoning district.

(Keith Read Legal Ad)

Charles and Andrea Evers: Homeowners proposing deck smaller than what was previously there. Previous deck was unpermitted and falling apart.

Fran Gallugi: Questions by the Board? Anyone in the audience to speak in favor? In opposition? Anyone else? Hearing none the matter is before the board.

Keith Slattery: Motion to close public hearing

Stephen Zolotas: Second

Keith Slattery: Motion to approve

Stephen Zolotas: Second

Fran Gallugi: Roll call vote (5,0) in favor

6. Application of FERNANDEZ SR ANGEL A & MARY G for a Variance from the Provision of the Zoning Ordinance 2020, as amended, Section(s) 7.1.5, as it applies to the premise known as **73 BARTHOLOMEW ST**, Peabody, MA, 115-011. Petitioner seeks a variance to construct a detached garage and requires relief to Accessory Structure Size where 500 sf is allowed and 616 sf is proposed. The property is located in a R1 zoning district.

(Keith Read Legal Ad)

Robert Zeuli: contractor proposing 616sf detached garage. No other relief required.

Fran Gallugi: Questions by the Board? Anyone in the audience to speak in favor? In opposition? Hearing none the matter is before the board.

Keith Slattery: Motion to close public hearing

Stephen Zolotas: Second

Keith Slattery: Motion to approve

Stephen Zolotas: Second

Fran Gallugi: Roll call vote (5,0)

7. Application of Drew Kaldes for a Variance from the Provision of the Zoning Ordinance 2020, as amended, **Section(s) 7.2**, as it applies to the premise known as **20 Manomet Road**, Peabody, MA, **01960 Map 032 Lot 068**. Petitioner seeks a variance for an addition and requires relief to Right Yard Setback where 20' is required and 16' is proposed. The property is located in a **R1** zoning district.

(Keith Read Legal Ad)

Drew Kaldes: Homeowner. Attached 2 car garage with 2 bedrooms and bathroom above. No kitchen.

Fran Gallugi: Questions by the Board? Anyone in the audience to speak in favor? In opposition? Hearing none the matter is before the board.

Keith Slattery: Motion to close public hearing

Stephen Zolotas: Second

Keith Slattery: Motion to approve

Stephen Zolotas: Second

Fran Gallugi: Roll call vote (5,0) in favor

SPECIAL MEETING

1. Continued appeal to the Commonwealth of Massachusetts Department of Housing and Community Development Housing Appeals Committee pursuant to M.G.L. c. 40B § 22 and C.M.R. 56.05(9)(b) by 40 Oak Street Development, LLC as it applies to the premise known as **40 Oak St.**, Peabody, MA, 095-089x.

Attorney Damon Seligson: Attorney with the law firm of Shea and Finney Bass and Green in Boston and I'm counsel to the Zoning Board of Appeals for the City of Peabody. This is the permit of 40 Oak Street Development LLC for a comprehensive permit under 40b. This was initially filed by the applicant on May 22, 2019. There were public hearings starting in August of 2019 all the way through to June 21st of 2021. The initial application sought approval of 80 residential rental units. The board closed its public hearing on June 21, 2021. The board then issued a decision on July 26, 2021 um which was to deny the application. The applicant filed a timely appeal with the Housing Appeals Committee on August 13, 2021. The committee convened a conference of council shortly thereafter and ordered the parties to go to mediation. After numerous discussions and a mediation that covered a number of days involving representatives from the city including Mayor Bettencourt. The parties resolved that appeal through a settlement that is now in a revised reduction from 72 units to 54 units four residential stories above a podium parking level with a bedroom count mix to be determined by the applicant.

(Settlement made part of these minutes)

Mayor Bettencourt: Mayor Bettencourt spoke in favor of the project. Smaller proposal, more parking, new amenities. Would like ZBA to approve the settlement.

Fran Gallugi: Anyone in the audience to speak? Hearing none the matter is before the Board.

Keith Slattery: Motion to accept the settlement.

Stephen Zolotas: Second

Keith Slattery: Motion to approve 40 Oak St. settlement.

Stephen Zolotas: Second

Fran Gallugi: All in favor. Any opposed. (5,0) 40b is approved

2. Application of Maple Multi-Family Land SE, L.P., for a **Chapter 40B Comprehensive Permit** as it applies to the premise known as **128 Newbury Street, Peabody, MA, Map 057, Lot 074 B,C,D,E,F,G,H,I,J,K,L,M,N,O,P and V.** Petitioner seeks to construct 220 rental units. The property is located in **BR1 and R1 Zoning Districts.**

Fran Gallugi: Attorney Damon Seligson to speak

Attorney Seligson: On October 7, 2021 the applicant filed a permit application seeking a comprehensive permit under chapter 40b. On November 1, 2021 the ZBA opened the public hearing and at that hearing the ZBA claimed Safe Harbor under the applicable Massachusetts code of regulations governing permits under 40b. On March 30, 2022 the applicant resubmitted an application for a 40b permit for 128 Newbury Street. On May 16 2022 the ZBA opened the public hearing on the resubmitted application. On all about the 17th of May 2022 the ZBA claimed Safe Harbor via written notice to both the applicant and the Department of Housing Community Development for the Commonwealth of Massachusetts. Subsequent to that invoking of Safe Harbor representatives of the applicant and representatives of the city including the Mayor's office met and a smaller reduced project was discussed.

As a result the ZBA has sent written notice to DHCD rescinding its initial invocation of Safe Harbor and so now the Board will open up the public hearing on the application for a 40b permit on 128 Newbury Street.

Attorney John R. Keilty: We have signed our contracts for peer review. We have submitted them back to the City. We are now hopeful that they will be executed by the Mayor and we will be out for peer review and returning at your July meeting with comments from our peer reviewers and our ability to speak to those issues at that time.

Fran Gallugi: Public comments. Is there anyone that would like to speak in favor or opposition?

Jeff Saliba: 1801 Hollow Tree Court, Peabody. In favor of the project. Union should be hired and would like to speak with the project team.

Joe Nardelli: 11 Hoover Ave. Union should be hired.

Attorney Keilty: Happy to speak with the union.

Stephen Zolotas: Motion to continue to July 18, 2022

Keith Slattery: Second

Fran Gallugi: All in favor. Any opposed. (5,0)

3. Application of **The Residences at Mills 58 LLC.**, for a **Chapter 40B Comprehensive Permit** as it applies to the premise known as **58 Pulaski St., Peabody, MA, Map 053, Lot 047**. Petitioner seeks to construct 51 rental units. The property is located in a **IL Zoning Districts**.

Keith Slattery: Motion to accept the following correspondences...

5.31.22 Hayes Memo Revised Plans

5.31.22 Revised parking plan

6.6.22 Captain Dowling Fire Memo

(Correspondences made part of these minutes)

Stephen Zolotas: Second

Attorney Panos: gave an update on 3rd party review

Ed Greely: Gave a presentation on some revisions to traffic and parking after meeting with Captain Richards from Peabody Police and Captain Dowling Peabody Fire.

(Presentation made part of these minutes)

Tony Cappachietti and Scott Thornton: Gave an overview of revisions and impacts to the traffic and parking.

(Presentation made part of these minutes)

Fran Gallugi: Public comment

Bill Sheehan: Attorney representing VRRM LLC and Sideways LLC. Two entities that own the 13 plus acres immediately adjacent to the subject property (Wayside Trans Corp is tenant). Noise, traffic and parking safety concerns in an industrial area where residential use was never permitted will negatively impact the tenants' ability to operate their businesses.

Mr. Greeley: If you're going to rent an apartment there you have to realize that there will be truck traffic

Dave DeLande: DeLande Electric 58 Pulaski St. has concerns with parking congestion and pedestrian safety.

Meg Kelly: Owner Wayside Traylor 58 Pulaski St. has concerns with traffic and the road being a dead end and people turning around added activity and traffic safety.

Fran Gallugi: Mr. Greeley can you please make the parking and traffic revisions available to the tenants or anyone so there's no confusion.

Mr. Greeley: Yes. Ms. Daigle and I met with them.

Stephen Zolotas: Motion to continue to July 18, 2022

Barry Osborne: Second

Fran Gallugi: All in favor. Any opposed.

1. Application of **The Tan-Rite Residences LLC c/o Attorney Jason Panos**, for a **Chapter 40B Comprehensive Permit** as it applies to the premises known as, **39 Wallis St., 4 and 8 Upton St., Peabody, MA, Map/Lot 085/ 011, 085/010, 085/009**. Petitioner seeks to construct 140 rental units. The property is located in an **GBD Zoning Districts**.
(Keith read Legal Ad)

Keith Slattery: Motion to accept following correspondence.

CORRESPONDENCE

5.12.22 DeNegro Memo CON COM

5.12.22 Talarico Memo BLDG

5.31.22 Bernson Memo COMM DEV

5.18.22 Langley Memo DPW

5.31.22 Councilor Peach Memo

6.1.22 Moakley Memo

6.1.22 Cappachietti Memo

6.1.22 Amico Memo Chamber in favor

6.1.22 Videira letter in opposition

6.2.22 Bellavance Memo

(Correspondences made part of these minutes)

Stephen Zolotas: Second

Attorney Panos: Gave a presentation on the proposed 140 rental units with the following

Tony Cappachietti: Project Manager, Hayes Engineering

Thad Samasco: Architect SV Designs

(Presentation made part of these minutes)

Stephen Zolotas: This thing is massive.

Barry Osborne: In agreement with Stephen Zolotas. It looks very dense. It would be wise to cut the density down.

Chris Gilbert: What is this going to do to the schools? It's huge.

Keith Slattery: A site visit is going to be important here. It will give us a feel for the current buildings and the rest of the neighborhood.

Site visit scheduled for June 17, 2022 at 2:30pm

Stephen Zolotas: Motion to continue to July 18 2022

Keith Slattery: Second

Fran Gallugi: All in favor. Any opposed (5,0) in favor

Barry Osborne: Can we request the State give us the numbers? It may add into our decision on how much we want to reduce these units.

(Discussion ensued)

Meeting Adjourned

July 18th and August 15 next meetings